

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CIVIL ACTION NO. 1:23-CV-270

MACKENZIE ELAINE BROWN

Plaintiffs,

v.

HENDERSON COUNTY
SHERIFF'S OFFICE, et al.

Defendants.

EXHIBIT 4 JUDGMENT AND COMMITMENT

STATE OF NORTH CAROLINA

HENDERSON

County

HENDERSONVILLE

Seat of Court

NOTE: [Use AOC-CR-301 for sentences under G.S. 130A-25(b). Use AOC-CR-342 for DWI offense(s).]

File No.

21CR 53859

In The General Court Of Justice

☒ District ☐ Superior Court Division

STATE VERSUS

Name Of Defendant

Mackenzie Elaine Brown

Race

W

Sex

F

Date Of Birth

7

Attorney For State

Anthony Cavalieri

☐ De No

☐ Waived Attorney

Attorney For Defendant

Bennis Maxwell

☒ Appointed ☐ Retained

Crt Rptr Initials

G.S. 15A-1301, -1340.20

JUDGMENT AND COMMITMENT - MISDEMEANOR

ACTIVE PUNISHMENT

(STRUCTURED SENTENCING)

(For Convictions On Or After Oct. 1, 2014)

The defendant was found guilty/responsible, pursuant to ☐ plea ☐ pursuant to Alford ☐ of no contest ☒ trial by judge ☐ trial by jury, of

File No.(s)	Off.	Offense Description	Offense Date	G.S. No.	CL.	*Pun.CL.
21CR 53859	01	(M) Injury To Personal Property	10/1/21	14-160	1	1

*NOTE: Enter punishment class if different from underlying offense class (punishment class represents a status or enhancement).

The Court has determined, pursuant to G.S. 15A-1340.20, the number of prior convictions to be 1. Level: ☐ I (0) ☒ II (1-4) ☐ III (5+)

- ☐ 1. The Court finds: ☐ (a) enhancement for ☐ G.S. 90-95(e)(4) (drugs). ☐ G.S. 14-3(c) (hate crime). ☐ G.S. 14-50.22 (gang misdemeanor).
☐ (b) enhancement from required suspended sentence to Class 2 misdemeanor. G.S. 90-95(e)(7).

This finding is based on a determination of this issue by the trier of fact beyond a reasonable doubt or on the defendant's admission.

- ☐ 2. The Court imposes mandatory punishment pursuant to G.S. 14-33(d). (assault in the presence of a minor)
- ☐ 3. The Court imposes the sentence pursuant to G.S. 15A-1340.20(c1). (active punishment exception)
- ☐ 4. The Court finds the above-designated offense(s) is a reportable conviction under G.S.14-208.6 and therefore makes the additional findings and orders on the attached AOC-CR-615, Side One.
- ☐ 5. The Court finds the above-designated offense(s) involved the physical, mental, or sexual abuse of a minor.
 (NOTE: If offense(s) is not also a reportable conviction in No. 4 above, this finding requires no further action by the Court.)
- ☐ 6. The Court finds this is an offense involving assault, communicating a threat, or an act defined in G.S. 50B-1(a), and the defendant had a personal relationship as defined by G.S. 50B-1(b) with the victim.
- ☐ 7. The Court finds the above-designated offense(s) involved (check one) ☐ (offenses committed Dec. 1, 2008 - Nov. 30, 2017) criminal street gang activity
☐ (offenses committed on or after Dec. 1, 2017) criminal gang activity. G.S. 14-50.25.
- ☐ 8. The Court did not grant a conditional discharge under G.S. 90-96(a) because (check all that apply) ☐ the defendant refused to consent.
☐ (offenses committed on or after Dec. 1, 2013, only) the Court finds, with the agreement of the District Attorney, that the offender is inappropriate for a conditional discharge for factors related to the offense.
- ☐ 9. The Court finds that this was an offense involving child abuse or an offense involving assault or any of the acts as defined in G.S. 50B-1(a) committed against a minor. G.S. 15A-1382.1(a1).
- ☐ 10. The Court finds that the defendant refused to consent to conditional discharge under G.S. 14-204.

The Court, having considered evidence, arguments of counsel and statement of defendant, Orders that the above offenses, if more than one, be consolidated for judgment and the defendant be imprisoned for a term of 1 days in the custody of the: (check only one)

- ☒ Sheriff of Henderson County. ☐ Other: _____
- ☐ Misdemeanant Confinement Program (sentences greater than 90 days for which a facility is not otherwise specified above).

The defendant shall be given credit for 1 days spent in confinement prior to the date of this Judgment as a result of this/these charge(s).

- ☐ The sentence imposed above shall begin at the expiration of all sentences which the defendant is presently obligated to serve.
- ☐ The sentence imposed above shall begin at the expiration of the sentence imposed in the case referenced below:

File No.	Offense	County	Court	Date
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Material opposite unmarked squares is to be disregarded as surplusage.
 (Over)

AOC-CR-602, Rev. 12/17

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The Court further Orders: (check all that apply)

1. The defendant shall pay to the Clerk of Superior Court the "Total Amount Due" shown below.

Costs	Fine	Restitution*	Attorney's Fees	SBM Fee	Appt Fee/Misc	Total Amount Due
\$ 193	\$	\$	\$	\$	\$	\$ 193 ⁰⁰

*See attached "Restitution Worksheet, Notice And Order (Initial Sentencing)," AOC-CR-611, which is incorporated by reference.

- ☐ 2. The Court finds that restitution was recommended as part of the defendant's plea arrangement.
- ☐ 3. The Court finds just cause to waive costs, as ordered on the attached ☐ AOC-CR-618. ☐ Other: _____
- ☐ 4. The Court finds that the defendant ☐ is ☐ is not suitable for placement in a county satellite jail/work release unit. G.S. 15A-1352(a).
- ☐ 5. Work release, with the consent of the defendant.
- a. After any required processing, defendant shall be committed to: [check (1) or (2)]
- ☐ (1) _____ (prison facility/local confinement facility/satellite jail/work release unit within this county)
- ☐ (2) _____ (local confinement facility/satellite jail/work release unit out of this county)
- The Sheriff or Board of County Commissioners has consented to commitment to the facility named in No. (2). G.S. 15A-1352(d).
- b. The defendant's work release shall terminate on the date the offender loses his/her job or violates a condition of work release.
- c. Work release earnings shall be paid to the Clerk for payment of the items and amounts set out above after deduction by the Division of Adult Correction and Juvenile Justice of the amounts allowed under G.S. 148-33.1(f).
- ☐ 6. Other: _____

The Court recommends:

- ☐ 1. Substance abuse treatment. ☐ 2. Psychiatric and/or psychological counseling. ☐ 3. Work release ☐ should ☐ should not be granted.
- ☐ 4. Payment from work release earnings, if applicable, of the "Total Amount Due" set out above. ☐ but the Court **does not recommend** restitution be paid from work release earnings.

The Court further recommends:**ORDER OF COMMITMENT/APPEAL ENTRIES**

- ☐ It is ORDERED that the Clerk deliver two certified copies of this Judgment and Commitment to the sheriff or other qualified officer and that the officer cause the defendant to be delivered with these copies to the custody of the agency named on the reverse to serve the sentence imposed or until the defendant shall have complied with the conditions of release pending appeal.
- ☒ The defendant gives notice of appeal from the judgment of the District Court to the Superior Court.
- ☐ The current pretrial release order is modified as follows: _____
- ☐ The defendant gives notice of appeal from the judgment of the Superior Court to the Appellate Division. Appeal entries and any conditions of post conviction release are set forth on form AOC-CR-350.

SIGNATURE OF JUDGE

Date 3/24/22 Name Of Presiding Judge (type or print) Emily Cowan Signature Of Presiding Judge [Signature]

ORDER OF COMMITMENT AFTER APPEAL

Date Remanded To District Court _____ Date Appeal Dismissed _____ Date Withdrawal Of Appeal Filed _____ Date Appellate Opinion Certified _____

It is ORDERED that this Judgment be executed. It is FURTHER ORDERED that the sheriff arrest the defendant, if necessary, and recommit the defendant to the custody of the agency named in this Judgment on the reverse and furnish that agency two certified copies of this Judgment and Commitment as authority for the commitment and detention of the defendant.

Date _____ Signature Of Clerk _____ ☐ Deputy CSC ☐ Asst. CSC ☐ Clerk Of Superior Court

CERTIFICATION

I certify that this Judgment and Commitment and attachment(s) marked below is a true and complete copy of the original which is on file in this case.

- ☐ Appellate Entries (AOC-CR-350) ☐ Judicial Findings And Order For Sex Offenders - Active Punishment (AOC-CR-615, Side One)
- ☐ Restitution Worksheet, Notice And Order (Initial Sentencing) (AOC-CR-611) ☐ Convicted Sex Offender Permanent No Contact Order (AOC-CR-620)
- ☐ Additional File No.(s) And Offense(s) (AOC-CR-626) ☐ Other: _____

Date _____ Date Certified Copies Delivered To Sheriff _____ Signature Of Clerk _____ ☐ Deputy CSC ☐ Asst. CSC ☐ Clerk Of Superior Court **SEAL**

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AOC-CR-602, Side Two, Rev. 12/17

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